

**APRIL 1971**

**ELEVENTH YEAR — No. 121**

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# **international review of the red cross**



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# INTERNATIONAL REVIEW OF THE RED CROSS

APRIL 1971 - No. 121

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**FRENCH EDITION  
OF THE REVIEW**

The French edition of this Review is issued every month under the title of *Revue internationale de la Croix-Rouge*. It is, in principle, identical with the English edition and may be obtained under the same conditions.

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**INTERNATIONAL  
REVIEW OF  
THE RED CROSS**

*The International Review is published each month by the International Committee of the Red Cross*

7, avenue de la Paix, 1211 Geneva I, Switzerland  
Postal Cheque No. 12 1767

Annual subscription: Sw. fr. 25.— (\$6)  
Single copies Sw. fr. 2.50 (\$0.60)

Editor: J.-G. LOSSIER

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The International Committee of the Red Cross assumes responsibility only for material over its own signature.

## HUMAN RIGHTS, THE LAW OF ARMED CONFLICT, AND REPRISALS

by F. Kalshoven

*The Henry Dunant Institute is inaugurating its collection of scientific works with an important book by F. Kalshoven which is reviewed in this issue. We are pleased to publish below a paper which this writer delivered at the International Congress on Humanitarian Law in San Remo last September.<sup>1</sup> (Ed.)*

Ever since the International Conference on Human Rights, held at Teheran in April/May 1968, unanimously adopted Resolution XXIII on human rights in armed conflicts, the realization of respect for those rights in situations of armed conflict has remained and, indeed, increasingly become a topical question. But it requires no profound knowledge of the matter to realize that the problem is of course much older. It may be safely stated that the idea of human rights, though perhaps not under that name, lies at the root of all the conscious attempts at codifying the law of war, undertaken since the Conference of Brussels of 1874.

In that Conference, as well as in the Peace Conference of The Hague of 1899, one of the main subjects of discussion was the position of the civil population in occupied territory. The history of armed conflicts showed many instances of resistance against an occupant. Should the population be accorded a right to resist, or should resistance, on the contrary, be expressly prohibited? Should the occupant have an unlimited right to suppress resistance, even by the sharpest measures of retaliation against the population in

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<sup>1</sup> See *International Review*, November 1970.

its entirety, or should limits be set to his powers in that respect? The outcome of the debate on these and similar questions, as it was ultimately laid down in the Hague Regulations on Land Warfare of 1899, was negative in so far as the right to resist was concerned: the opening Articles, dealing with combatant status, did not mention the resistance fighters in occupied territory among the categories of legitimate combatants. On the other hand, Article 50, in the section specially devoted to the occupation régime, restricted the powers of the occupant to retaliate against persons other than the actual perpetrators of acts of resistance, by laying down that collective punishment would only be permissible against a population that could be held collectively responsible for the act retaliated against.

While this seemed quite an important step towards improving the position of the population in occupied territory, the situation was confused by a seemingly incidental remark in the report of Rolin, the rapporteur of the Sub-Committee that had elaborated the text of the Regulations. For, when he explained how the Committee had arrived at the decision to extend the scope of Article 50 from collective fines (as originally proposed) to all forms of collective punishment, he added that this decision had been without prejudice to the question of reprisals.<sup>2</sup> This suggested, without explaining the point, that reprisals were something different from collective punishment and that an occupant could resort to reprisals in situations where collective punishment would be out of the question.

The records of the Peace Conference of 1899 throw hardly any further light on this question. Actually, that Conference did not deal with the issue of reprisals in any general way. Nor had the Conference of Brussels set any better example. True, the Russian proposals for a draft Convention which were before that Conference contained provisions dealing with belligerent reprisals. When, however, the discussion turned to the question of violations of the laws and usages of war and, in that context, to the proposed text on reprisals, the Belgian delegate argued that there was something odious to the very principle of reprisals; and, he said, as any draft-

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<sup>2</sup> *Conférence internationale de la Paix*, Proceedings, Vol. III, p. 46.

ing of rules bearing on reprisals must necessarily imply that odious principle, it seemed wise not to embody the proposed Article in the draft Convention which the Conference was elaborating. He therefore proposed to sacrifice the Article as it was on the altar of humanity; a proposal that was accepted unanimously.<sup>3</sup>

What was this principle of reprisals, merely alluded to in 1899 and even expressly sacrificed to humanity in 1874? Was it so odious as to be better not referred to at all? Here, it may be interesting to quote an author who wrote in the same period and whose opinion was certainly not so entirely negative. This author, Henri Brocher, after mentioning the traditional function of so-called peacetime reprisals as measures short of war, went on to explain that reprisals had also become an intermediate way between war waged according to the rules and war not so waged. Belligerent reprisals, in other words, were a means to prevent war becoming completely barbarous. As such, they were the symptom of progress, although, he added, further progress would be necessary to lead to their reduction or even complete disappearance.<sup>4</sup>

This more positive view of belligerent reprisals was expressed, it should be added, in 1873, one year before the Conference of Brussels decided to refrain from discussing the concept in the name of humanity. Which side was right?

The opinion that belligerent reprisals have a place in the international legal order, where they operate as sanctions of the laws of war, can certainly be defended on sound theoretical grounds. International society is still characterized by a high degree of decentralization, leaving the enforcement of international law very much to the interested States. This is true in normal times, and it applies *a fortiori* in the abnormal situation of armed conflict. States—and also belligerent States—may exercise this function of law enforcement by various means, such as protest, complaint in an appropriate organ such as the Security Council, or bringing the matter before a competent Court (if there is one). They may also take recourse to unilateral enforcement action directly against the opposite party, and this may take the form of reprisals. Without any

<sup>3</sup> Conference of Brussels, De Martens, N.R.G. 2nd Series, Vol. IV, p. 139.

<sup>4</sup> Henri Brocher, "Les principes naturels du droit de la guerre", *Revue de droit international et de législation comparée*, Vol. V, 1873, p. 349.

## HUMAN RIGHTS AND REPRISALS

attempt at exactness, one could define belligerent reprisals as acts infringing, it is true, one or other norm of the law of war, but serving to make the adversary abandon a particular mode of conduct which equally infringes some norm of the law of war.

While there is thus a theoretical basis for the justification of belligerent reprisals, there are also grave objections, particularly from the point of view of human rights. It is of course easy to refer to reprisals as acts of one belligerent party against the other, but in reality the acts will affect the interests, or even the life or health, of human beings. Moreover, the victims will in all probability be innocent of the wrong retaliated against. Thus, if prisoners of war are killed in retaliation for the allegedly unlawful execution of members of one's own party who were prisoners in enemy hands the victims of reprisal bore no responsibility whatsoever for the executions retaliated against. Belligerent reprisals, in other words, rest on the idea of solidarity, of holding the members of a community jointly and severally liable for the deeds of some of them. It hardly needs emphasizing that this goes to the roots of the concept of human rights, as fundamental rights of the human being as an individual, as distinct from his position as a member of the collectivity.

Another, equally grave, objection to belligerent reprisals comes to light when these are considered from the other side, that is, the side of the retaliating party. The laws of war restrict belligerents in their power to conduct war by any means or methods of their choice. They are, in other words, a reluctantly accepted limitation on the sovereignty of States, intended to have their effect (in the words of Article 4 of the International Covenant on Civil and Political Rights) "in time of public emergency which threatens the life of the nation". Recourse to belligerent reprisals means the setting aside of certain such limits, or, in other words, a resumption of unrestricted sovereignty in a situation where this is least desirable and, indeed, least tolerable from the point of view of human rights.

These considerations lead to the conclusion that it is worth pursuing the abolition of belligerent reprisals. To be sure, this goal has in part been realized; while in 1929 a prohibition of reprisals was only introduced into the Prisoners of War Convention con-



cluded in that year, all four Geneva Conventions of 1949 contain an express prohibition of reprisals against persons and property protected under their terms. In the Fourth Convention this prohibition is extended to collective punishment and measures of terrorization of the civil population in occupied territory, as well as to the taking of hostages. Again, the Convention of The Hague of 1954 prohibits reprisals against protected cultural property. In all these cases, it should be added, the prohibition of reprisals was made possible by the introduction of other, less destructive, means: supervision of the observance of the rules, and individual punishment of breaches.

Even so, however, there remain a number of problems unsolved. These are connected, first of all, with the law of The Hague, or law of war. True, reprisals against cultural property are prohibited; but this accounts only for a very minor aspect of the problems encountered here.

It should be stated at the outset that some of the most basic problems which one meets here, though at first sight connected with belligerent reprisals, arise not so much from that concept as from that of reciprocity. Thus, the reservations made by a number of States in ratifying the Geneva Gas Protocol of 1925 have given the prohibition against the use of certain chemical and biological means of warfare, contained in the Protocol, the character of a no-first-use declaration. In other words, as soon as one belligerent in the course of an armed conflict starts using such prohibited weapons, the prohibition lapses and all the participants in that particular armed conflict are for the duration thereof free to use chemical or biological weapons in the same manner as they may use other non-prohibited means of warfare. And the same would hold good if a prohibition against the use of nuclear weapons were to assume the character of a prohibition of first use: any first use by one belligerent would restore the other belligerents in their right to use the weapons as if there were no prohibition; without prejudice, again, to the rules concerning the use of non-prohibited weapons, such as (to name a particularly important one) the prohibition to make the civil population the object of direct attack.

How difficult it is to obtain the exclusion of reciprocity from a prohibition as that against chemical weapons, came to light in

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the 1930s when the Disarmament Conference met in Geneva, from 1932 to 1934. That Conference saw itself confronted with all the problems of inspection, in time of war as of peace, with which the present Conference of the Committee on Disarmament again has to wrestle. The endeavours of the Disarmament Conference remained without success. But it is of interest to note that the Conference in the course of its deliberations dealt very extensively with the problem of sanctions to be attached to a prohibition not on the condition of reciprocity. These sanctions, the Conference felt, should be special ones, and reprisals, even in kind, should preferably be excluded. It was only towards the end of the Conference, when all hope of success had in fact gone, that a British proposal fell back on the traditional position and stated that, in case of use of chemical weapons in violation of the relevant prohibition, reprisals in the form of retaliation in kind would be the principal sanction. Even then, however, it was not for a moment suggested that gas might be used in retaliation for any other infringement of the laws of war, that is, as retaliation not in kind.<sup>5</sup>

Similar difficulties will attend any attempt at achieving a prohibition against the use of nuclear weapons not restricted by a condition of reciprocity. Principal questions will be the prevention of violations of such a prohibition, and sanctions in case of violation. I need not enter into the various conceivable solutions for these problems. It may suffice to note that the difficulties here are as overwhelming as the interests at stake are tremendous. Indeed, one must fear that these problems will prove unsolvable for quite some time to come. It seems, therefore, that a prohibition against first use of nuclear weapons is for the time being the only end within reach.

This brings us back to the question of reprisals. For, as I remarked a moment ago, the effect of a reciprocity clause attached to a prohibition of nuclear weapons would merely be to deprive them, once used in an armed conflict, of their character of prohibited weapons for the duration of the conflict. Belligerents using them would, in other words, still have to respect the rules governing the use of non-prohibited weapons. But can they set aside these

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<sup>5</sup> Draft Convention on Disarmament, Conf.D. 157 (1); Geneva, 16 March 1933.

rules by way of reprisals? Can they, in particular—and this is the crucial question here—set aside the fundamental principle that the civil population should not be made the object of armed attack?

It is submitted that they cannot justifiably do so. In order to arrive at this conclusion, however, one cannot (as some authors have attempted to do)<sup>6</sup> simply rely on the fact that a retaliatory nuclear attack on enemy territory would necessarily also affect property protected by the Geneva Conventions of 1949 or the Hague Convention of 1954: it has never been the intention, either of those Conventions, or of the prohibition of reprisals which they contain in particular, to decide *en passant* the issue of the protection of the civil populations against attacks with weapons of mass destruction.

Nor is it permissible simply to state that nuclear retaliation against the civil population would infringe the laws of humanity and, hence, be unjustifiable as a reprisal. There is no such thing as “the laws of humanity” which would all by themselves lead to the outright prohibition of certain forms of belligerent reprisals. Inhumanity, it should be realized, is more or less by definition a characteristic of belligerent reprisals.

There does exist, however, a principle of humanity, as one of the fundamental principles governing justifiable recourse to belligerent reprisals. Another such fundamental principle, complementary to humanity, is effectiveness. In a situation such as the one we are discussing, where there are no positive indications in customary or treaty law deciding the issue, the solution must in the last resort be found by weighing these two principles against each other in the light of all the relevant facts. Some authors who have done this have arrived at the conclusion that in case of nuclear retaliation against the civil population the inhumanity and, indeed, barbarity of the act is counter-balanced by its effectiveness

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<sup>6</sup> Baron von der Heydte, “Le problème que pose l’existence des armes de destruction massive et la distinction entre les objectifs militaires et non militaires en général”, reports drawn up for the 5th Commission of the *Institut de droit international, Exposé préliminaire*, 1961, in *Annuaire de l’Institut de droit international*, 1967, Vol. II, p. 89; N. Singh, *Nuclear Weapons and International Law*, 1959, p. 222 (unless “the first user of nuclear weapons destroys protected persons and property”: in that supposition “there would appear to be justification to retaliate in kind, . . . even though the provisions of the Geneva Conventions were being violated”).

## HUMAN RIGHTS AND REPRISALS

as a reprisal<sup>7</sup>. I venture to call in question the correctness of their evaluation. While there is no practice with nuclear retaliation, the experience of recent armed conflicts, including the Second World War, shows clearly that the short-term effect of retaliatory attacks against the civil population is uncertain, and that in the long run they are even likely to produce the opposite effect of the one intended. The so-called reprisal bombardment of London, in 1940, is a case in point.

True, the available facts do not permit the unqualified conclusion that the effect of a policy of retaliation against the civil population will be negligible, or even negative, in all circumstances. Even so, however, I do not hesitate to rate the effectiveness of such a policy as extremely dubious.

One has to weigh this dubious effectiveness against the unquestionable inhumanity of a policy of nuclear retaliation, say, against enemy cities. In my submission, this weighing up process must lead to the conclusion that such retaliation cannot be justified as a reprisal. On the other hand, the element of uncertainty implied in the above reasoning forces one to recognize that a prohibition of such forms of retaliation, in order to be effective, stands in urgent need of authoritative confirmation by the international community.

While nuclear retaliation, and the implied idea of holding the civil populations hostages for the policies their leaders choose to pursue, may be said to constitute the "maxi" problem of belligerent reprisals, there is also a "mini" problem; or, rather, there are two.

One is the issue of reprisals in non-international armed conflicts, in the sense of Article 3 of the Geneva Conventions of 1949 and Article 19 of the Hague Convention of 1954. Neither the common Article 3 of the Geneva Conventions, nor Article 19 of the Hague Convention, contains an express prohibition of reprisals. True, Article 3 (to confine ourselves to the more important Geneva Conventions) prohibits categorically the taking of hostages, along with other acts particularly violative of essential human rights. To that extent, these prohibitions can be regarded as elaborations

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<sup>7</sup> Singh, *op. et loc. cit.* n. 7; J.-C. Venezia, "La notion de représailles en droit international public", *Revue générale de droit international public*, Vol. 64, 1960, pp. 465 and 489.

of the requirement of humane treatment contained in the first clause of Article 3, sub-paragraph 1. But is it so unmistakably certain that the norm prescribing humane treatment of persons and thus protecting them as human beings, that is, in their individual capacity, excludes recourse to reprisals<sup>8</sup> against these same persons as members of a community, that is, on the basis of the idea of solidarity?

The drafting history of the Geneva Conventions does not provide any definite answer to this question. Nor can the issue easily be decided by a recourse to fundamental principles. For, while it is beyond doubt that reprisals in the course of a non-international armed conflict will generally result in inhumane treatment of the victims of such acts, it is equally certain that the States in elaborating the text of Article 3 have displayed the utmost caution in signing away any of the powers at their disposal for the situation of internal armed conflict.

Once again, one is therefore confronted with a situation where the written law is not clear and where the resultant uncertainty can endanger human beings, even in their very lives. Amendment of Article 3 with an express prohibition of reprisals in all forms is therefore an urgent requirement.

There remains the second of the two mini-scale problems, and one that brings us outside the sphere of the law of armed conflict proper: viz., the issue of reprisals, or reprisal-like actions, in situations of non-armed political conflict. We are regularly confronted with news items about the kidnapping of diplomats and similar persons, who are then held as hostages to obtain the release of political prisoners held by the authorities. Such practices will perhaps be defended with the argument that the detention of the political prisoners was itself in contravention of fundamental human rights. Whether that contention is correct is of course a matter of appreciation of all the facts relevant to the case. The point of interest is, however, that such a practice of taking hostages in order to make the political opponent abandon a specific, allegedly unlawful, mode of conduct is in all respects identical to the practices belligerents have long pursued with a view to enforcing the law

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<sup>8</sup> As is suggested in the *Commentary to the Geneva Conventions of 1949*, published under the general editorship of Jean S. Pictet, I, p. 55; II, p. 36; III, p. 40; IV, p. 39.

## HUMAN RIGHTS AND REPRISALS

of war. Participants in armed conflicts, whether international or not of an international character, have been deprived of the power so to react to the enemy's illegalities. Should this prohibition extend, as a matter of international law, to the non-armed political conflict?

This question, once again, cannot be simply answered by referring to certain written rules of law. True, unwarranted deprivation of liberty is contrary to a fundamental human right, and the taking of hostages is an unmistakable deprivation of liberty. But is it also unwarranted? The police, and, generally, those in power have certain powers to arrest persons even under the most democratic human rights régime. Should not the opponents of a perverted political structure likewise have certain powers to enforce human rights?

I shall not venture to suggest any definite answer to this question. But I do suggest that, if ever a code for the use of force in non-armed political conflict were to be brought about, the question of taking hostages and, in general, of reprisal-like actions on both sides in the conflict, will have to be solved one way or another. For that eventuality, I merely want to observe that here, as in the law of armed conflict, an element of particular importance should be the consideration that innocents ought not to be made to suffer for the deeds of others.

However this may be, one thing emerges with particular clarity from the foregoing summary examination of certain basic problems of the law of reprisals: on each of the three levels of coercion which we discussed, and both in the context of armed conflict and in that of non-armed political conflict, there are some crucial issues where the state of the law is uncertain, and where an authoritative solution of the problems posed by the possibility of reprisals is an urgent matter, not least in the interests of the realization of human rights.

**Frits KALSHOVEN**

Reader in International Law  
in the University of Leyden

# INTERNATIONAL COMMITTEE OF THE RED CROSS

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## REAFFIRMATION AND DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICTS

### CONFERENCE OF RED CROSS EXPERTS

*On 1 March 1971, the Conference of Red Cross experts on the reaffirmation and development of international humanitarian law applicable in armed conflict opened at the Peace Palace in The Hague. The Conference, of which the significance was explained in our March issue, and which continued until 6 March, was convened by the International Committee of the Red Cross and organized with the valuable co-operation of the Netherlands Red Cross Society. Sixty-nine delegates, representing 34 National Red Cross and Red Crescent Societies, participated in the session.*

*The opening meeting, under the Chairmanship of the Jonkheer Kraijenhoff, President of the Netherlands Red Cross Society, took place in the main hall of the International Court of Justice, in the presence of H.E. Mr. C. H. F. Polak, Minister of Justice, Mr. V. G. M. Marijnen, Burgomaster of The Hague, Mr. Marcel A. Naville, President of the ICRC, Mr. Marc Schreiber, Director of the U.N. Human Rights Division, Mr. Nedim Abut, Under Secretary-General of the League of Red Cross Societies, and many diplomatic representatives.<sup>1</sup>*

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<sup>1</sup> *Plate:* The President of the Netherlands Red Cross, the Jonkheer G. Kraijenhoff, addressing the opening meeting. *On his left:* Mr. Naville, President of the ICRC; Mr. Schreiber, Director of the U.N. Human Rights Division; Mr. Abut, Under Secretary-General of the League; Mr. van Emden, Director-General of the Netherlands Red Cross; Mr. Pilloud, Director of the ICRC Department of Principles and Law. *On his right:* Mr. Polak, Minister of Justice; Mr. Marijnen, Burgomaster of The Hague; Mr. Pictet, Chairman of the Legal Commission and member of the ICRC; Mrs. Bindschedler and Mr. Gallopin, members of the ICRC.

## INTERNATIONAL COMMITTEE

*A number of speakers took the floor. Mr. Marijnen bade the participants welcome; Mr. Schreiber presented the greetings and good wishes of the United Nations Secretary-General, underlining the excellent co-operation between the United Nations and the ICRC. The Presidents of the Netherlands Red Cross and of the ICRC each delivered an address, the main passages of which we reproduce below, not omitting to mention that Mr. Naville expressed the Geneva institution's gratitude to the Netherlands Red Cross which played a determining role in the organizing of the Conference.*

### **Jonkheer G. Kraijenhoff, President of the Netherlands Red Cross:**

... We know full well that our country is small and that The Hague is not very large. But both the country and the city are renowned all over the world, not only in the spheres of trade, industry and fine arts; I only have to mention the name of Grotius, the founder of the law of nations.

We are proud to welcome you here, for you will find yourselves in those same surroundings where so many eminent persons before you, each in the historical context of his own period, worked towards the creation of a body of regulations of international law.

It was in 1907 that the construction of the Palace of Peace was begun in The Hague. It was formally opened on 28 August 1913 during the second Peace Conference. Since then, two world wars and a large number of internal conflicts have sown destruction throughout the world. The consequences thereof have assumed various aspects; being obliged to face up to them, we have frequently observed that the present regulations do not meet the needs of the time, while circumstances change with such bewildering speed that one must speak of revolution rather than evolution!

We of the Red Cross cannot and should not stand aloof from all these events, for at the centre of all there is mankind. The protection of suffering humanity is our own responsibility, and that is why we must compliment the International Committee of the Red Cross for having so quickly taken the initiative after the XX1st International Conference at Istanbul.

Within these historic walls, you will be examining for the next few days a subject as interesting as it is complex, and your work



will greatly influence the outcome of this conference. You undoubtedly are aware of the responsibility you bear towards your own country and people as much as towards the whole of humanity. This meeting is certainly quite important with regard to the behaviour of nations during a conflict, but it is, also, especially so for all men at all times now and later on, and wherever they may be.

I extend to you my best wishes that you might work in that spirit of understanding and tolerance which has always been that of the Red Cross, and that you might finally obtain satisfactory results.

**Mr. M. A. Naville, President of the ICRC:**

... Twenty-two years have passed since the community of independent nations, still shaken by the horrors of the Second World War, built up in 1949 that monumental legal instrument, the Geneva Conventions. Planned and prepared by the International Committee of the Red Cross, its 400-odd articles are the most complete code of rules for the protection of the human being in the event of armed conflict. It is a duty incumbent on governments to spread knowledge of them widely and to ensure the observance of their provisions. And it is only right to underline that, to the extent that those Conventions are applied, they afford sufficient protection to the victims of the events they were designed to cover. We must therefore discount, as pointless and even dangerous, any idea of undertaking at present the general revision of these laws which almost every nation in the world has ratified.

It is true that some States which acceded to independence only after 1949, and therefore did not participate in drawing up the Conventions, may be inclined to ask that they be recast on the grounds that they are not suited to their way of thinking or way of life. The Red Cross must therefore endeavour to demonstrate to those countries that the Geneva Conventions are standards of universal civilization to which all States can and should subscribe, for they were drawn up in a spirit of respect for the principles of non-discrimination, equality, and impartiality. Let us study carefully how the application of existing law may be improved, but let us avoid undermining a legal system instead of strengthening it.

## INTERNATIONAL COMMITTEE

On the other hand, how urgent it is to supplement those Conventions in order that the protection of victims may be ensured in all sorts of new situations which arise as a result of the nature of contemporary conflicts! By underlining the urgency and need of this task, the XXIst International Conference of the Red Cross, at Istanbul in 1969, wished to make it clear that the reaffirmation and development of humanitarian law was the central concern of the Red Cross as a whole, and not only of the International Committee.

On the basis of the mandate which was unanimously confirmed by Istanbul resolution XIII, and encouraged by the support which the United Nations has just given it in resolution No. 2677, the International Committee of the Red Cross wished to initiate the public phase of its programme by calling together the experts of National Red Cross Societies for a broad exchange of views and to associate closely the National Societies in its work for the renovation of international humanitarian law. It will avail itself of this opportunity to make known the results of its work and to explain its views on the main problems.

It must be stated at this point that at this meeting of experts opinions will not be binding on those who express them. The work to be carried out consists of a sort of exploration in common, during which what is said will be noted but will not be decisive. It is hoped that the subjects for discussion will be broached from a general point of view and that specific examples will be referred to only for the purpose of drawing from them conclusions acceptable to all. Everyone will bear in mind that the common concern which brings us to this hospitable town is essentially humanitarian.

The documentary material available to you consists in the main of reports submitted to the Istanbul Conference, the important decisions reached by the U.N. General Assembly in 1969 and 1970, and the first of a series of preliminary reports which the ICRC is now completing and which are intended for the government experts who will attend the meeting which will start in Geneva on 24 May this year. This documentary material, which will later be supplemented, should cover the various fields in which there is need for additional rules.

## CONFERENCE OF RED CROSS EXPERTS

THE HAGUE, 1-6 March 1971

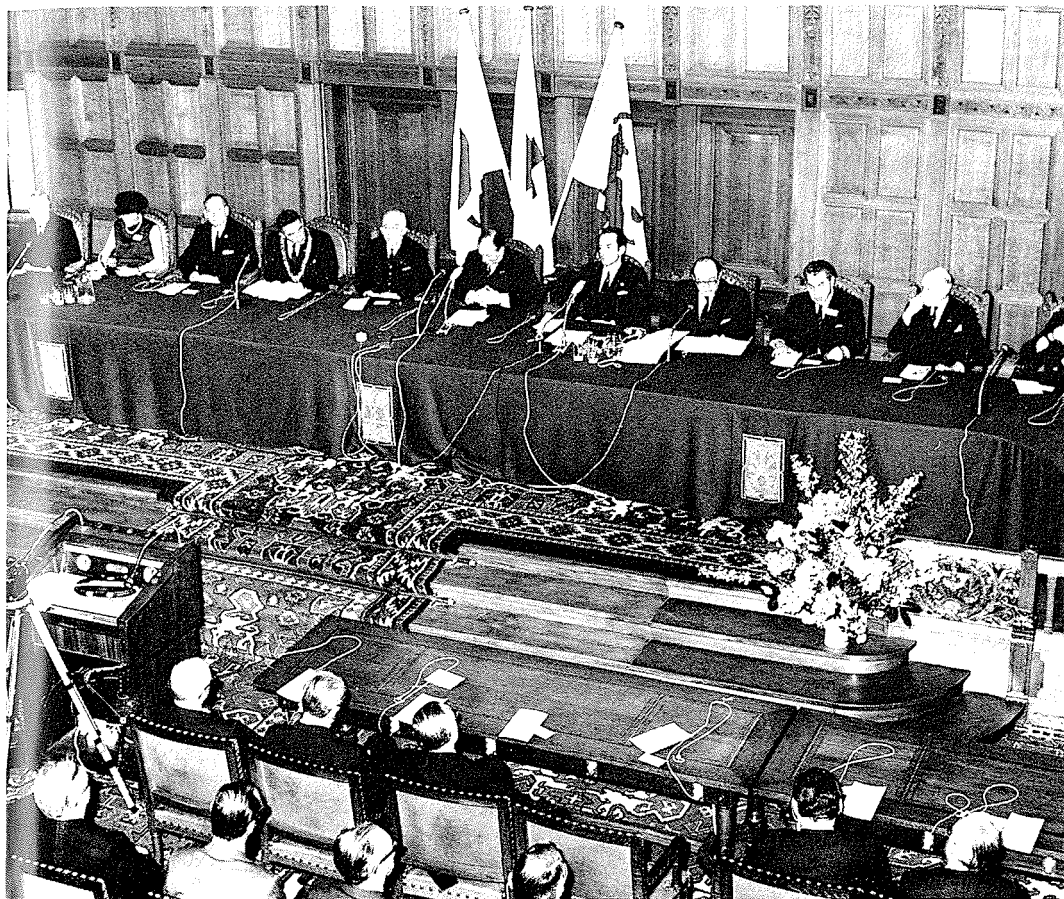


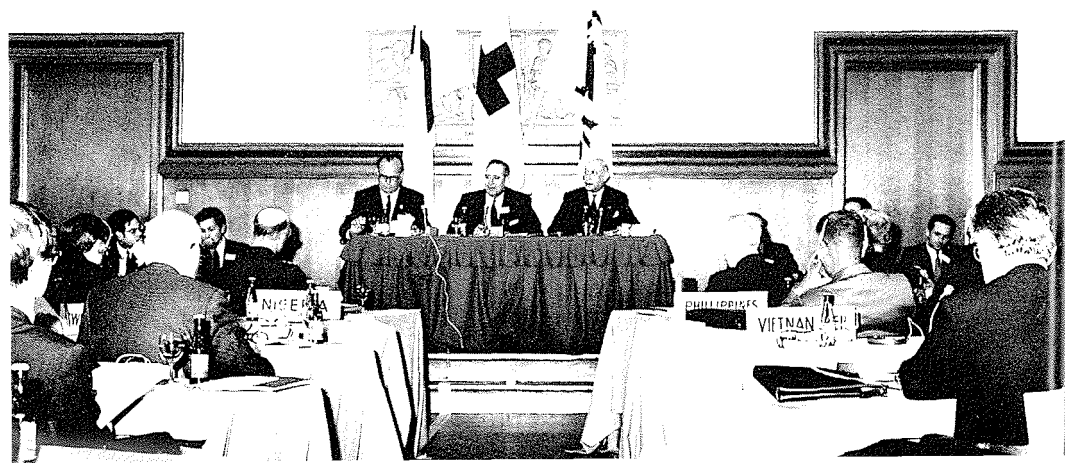
Photo Charles Hartman, The Hague.

Opening meeting : address by the President of the Netherlands Red Cross.



The Hague: The Conference of Red Cross Experts.

Photos Charles Hartman, The Hague.



It is well known that most of the conflicts which have occurred since 1949 have been non-international. However, for such conflicts, the 1949 Geneva Conventions postulate only a few principles which, although essential, experience has proved inadequate. In those Conventions, nothing is said, for example, on the functions which National Societies may be called upon to discharge in internal conflicts; on the use and protection of their emblem; on the safeguard of medical personnel. Nor is there any mention of the status or treatment which should be afforded during internal disorders and tension to persons arrested for political, ideological or racial reasons and whom the ICRC endeavours to visit in many countries of the world.

The way in which conflicts are carried out shows that the civilian populations are more and more sorely tried by hostilities. The Geneva Conventions protect them mainly when they are in the power of an enemy, but the existing rules for their safeguard against the effects of hostilities, and particularly against weapons of mass destruction, have for a long time been clearly inadequate. It is therefore important to impose on attacking forces and on those responsible for the civilian population, obligations to take precautions so that the population is not needlessly exposed to the effects of the fighting.

In internal conflicts new methods of fighting are used. What we call guerrilla warfare is well known in history, but in our day it has assumed new forms. To what extent can those who wage it be compelled to observe certain essential humanitarian limits and to what extent should they be considered as prisoners of war in the event of their capture? Such questions call for a prompt reply.

These are some of the main items on our agenda, but there are others. Avoiding lengthy discussion of technical and legal details, the Conference should apply itself rather to those aspects of the problems which are of special concern to the Red Cross. It should above all endeavour to educe some of the main trends. The results of this exchange of views will be the subject of a report to the Conference of Government Experts in May and, of course, to all National Societies. It is too soon to say how the proposals to be drawn up by the International Committee of the Red Cross, following these various meetings of experts, may be converted into rules

## INTERNATIONAL COMMITTEE

binding on States. However, to quote the U.N. resolution, it is desirable that one or more diplomatic conferences, attended by plenipotentiaries of interested States, should meet in due course, after suitable preparation, to adopt international legal instruments designed to reaffirm and develop humanitarian law applicable in armed conflicts.

In several ways the National Red Cross, Red Crescent and Red Lion and Sun Societies may contribute to the success of this work.

In the first place, in the drawing up of humanitarian law, the nearer the approach to the government level and to a diplomatic conference, the more what are called the demands of State security, or military necessity, obtrude. True, all effective regulations must take this into account, but the Red Cross as a whole must make it understood that certain basic humanitarian requirements predominate over any other consideration.

In the second place, faced with the difficulties of the undertaking, certain circles and governments may be tempted to delay or postpone the work. There again, the Red Cross as a whole, and each National Society in its own country, should insist on the necessity of reaching, in a reasonably near future, general agreement on new protective provisions. In connection with this matter of humanitarian law studies, the National Societies and the ICRC have a decided advantage over other institutions; their work may be based on actual experience and first-hand knowledge at the individual level of the realities of present-day conflicts. That is a guarantee of realism and effectiveness.

Finally, in contrast to the days when the 1949 Conventions were drawn up, the world today is characterized by profound ideological differences, by hate and by armed violence, all of which of course make the acceptance of humanitarian discipline more difficult. Our movement, which by virtue of its very principles should be able to rise above political and social antagonism and set an example of mutual understanding, must ensure that politics influence this work as little as possible in order that the rules to be drawn up shall be based not on partisan and particular considerations but on, and only on, the welfare of victims.

Hence the role of the Red Cross is fundamental here. It is its duty and original character to remind the Powers that in leading the people certain rules must be given priority. To safeguard the innocent, to refrain from inflicting needless suffering, to treat an enemy with humanity, is to increase the chances of a return to peace, to a peace which at heart all men seek yet to achieve which, by a tragic contradiction, they incessantly wage war against each other.

*During the working meetings the experts exchanged views on the problems which, due to the armed conflicts and tension of recent years, are of the greatest concern to the Red Cross. Bearing in mind particularly the changing techniques of modern conflicts and their effects in the realm of human rights, the experts were unanimous in recognizing the necessity and urgency of reaffirming and developing international humanitarian law. They considered that any effort to do so was also a contribution to the promotion of the spirit of peace throughout the world.*

*In the quest for a balance between idealism and realism, the experts shared the ICRC opinion that the 1949 Geneva Conventions should not be revised but supplemented and given greater precision by additional protocols.*

*The Conference recognized the importance of disseminating existing law among the armed forces, youth and the public at large. In this in particular all Red Cross, Red Crescent and Red Lion and Sun Societies had an essential role to play in their respective countries.*

\* \* \*

*As its chairman, the conference elected Mr. Jean Pictet, Chairman of the Legal Commission and member of the ICRC. At the closing meeting he summarized the work of the Conference and highlighted the main points. We therefore reproduce, to conclude, the text of Mr. Pictet's recapitulation, and we also point out that the conclusions reached by the Conference of Red Cross Experts will be conveyed to the Conference of Government Experts which will take place in Geneva from 24 May to 12 June 1971:*

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In the course of the general discussion with which our conference opened, we were reminded that, although the united and indivisible Red Cross movement was founded to alleviate the suffering caused by armed conflicts, it must also contribute to the maintenance of peace. Moreover, war as a means of settling international disputes was forbidden by the United Nations Charter.

That being said, the consensus was that the reaffirmation and development of the law applicable in armed conflicts was an urgent necessity, bearing in mind the progress achieved in the realm of human rights. However, it was by no means necessary to entirely re-shape the existing conventions. It was sufficient to supplement them and give them added precision, particularly by means of additional protocols.

Concerning the first item on the agenda, *the protection of the wounded and the sick*, the two draft protocols submitted by the ICRC were considered to be an excellent basis.

Agreement was reached on the following two principles:

(a) the civilian medical personnel should be granted protection equivalent to that of the military medical personnel, and

(b) the right to display the sign of the red cross (or red crescent) should, in time of conflict, be conferred only on persons subject to State supervision.

For further details on this first item, reference may be made to the report of the Working Party which was set up to draft the conference's conclusions in this field.

The second item of the agenda, *Measures intended to Reinforce the Implementation of the Law*, was split into four subdivisions.

1. *Dissemination of knowledge on the Geneva Conventions.* A number of experts stressed that humanitarian law should not only be developed, but better applied. For that, it was essential that the Conventions be much better known and be taught more thoroughly at all levels. Renewed effort was demanded, particularly of the armed forces and universities, and also to influence youth. It was necessary to reach the individual direct. The Red Cross had a con-



tribution to make to that mission. Interesting practical suggestions were put forward, particularly that of training advisers to be attached to large military units.

## 2. *Supervision* of the implementation of treaty provisions.

Some delegations stated that supervision was essential to the proper implementation of the Conventions and should, if possible, be reinforced.

The view was also expressed that the system of supervision provided for in the Geneva Conventions was good and that, rather than evolve a different system, what was required was to eliminate the obstacles which all too often States raised to the appointment of Protecting Powers.

Most of the experts advocated strengthening the humanitarian role of the ICRC and some went so far as to suggest that the ICRC should, on a permanent basis and automatically, substitute for Protecting Powers. In this respect, the ICRC delegation pointed out that, contrary to what was thought or said in certain quarters, it was ready to act as the substitute for Protecting Powers whenever possible and expedient, by assuming the *humanitarian* tasks falling to a Protecting Power, as the Conventions themselves laid down. The ICRC was still a relief organization, independent and acting in accordance with Red Cross principles; it would not become the mandatary of a specific State.

Some experts suggested the founding of a special organization to deputize for Protecting Powers, as permitted, incidentally, by the Conventions. Such a body could be founded within the framework of the United Nations.

Other experts underlined the increased influence today of public opinion and the usefulness of enlisting its support to enforce respect of the law.

## 3. *Sanctions*. A clearer definition of war crimes was advocated.

4. *Reprisals*. These were recognized as the cause of great suffering, and a failure in that they did not achieve their objectives. In 1949, the Geneva Conventions forbade reprisals against persons protected by the Conventions. It was the wish of some experts

that they also be forbidden in all circumstances against the civilian population as a whole.

Another important item was: *the protection of the civilian population against the dangers of indiscriminate warfare.*

Although, in this respect, general principles, customary rules and United Nations resolutions could be invoked, it was essential to draw up compulsory international law standards providing civilian populations with the protection which they so urgently required.

Several experts pointed out that although weapons of mass destruction—permitting of no distinction between military objectives and population—and also weapons which inflicted needless suffering were already prohibited, it would be worth while reaffirming the relevant laws. That matter was being dealt with by the United Nations but the Red Cross could not but be interested in it and should continue to make its voice heard.

It was agreed that future rules should define the civilian population and the special safeguard of the weak and defenceless and also, for example, of the personnel of civil defence services. Stress was laid also on the importance of active and passive precautions to be taken by the parties to a conflict.

The Conference devoted special attention to international Red Cross relief for sorely tried populations. Provision should be made to send such populations the food and medical supplies they needed. In that respect, the traditional role of National Red Cross Societies, laid down in Article 63 of the Fourth Geneva Convention and endorsed by Resolution No. XXVI of the twenty-first International Conference of the Red Cross, should be given the support of an international law provision so that governments grant National Societies the necessary facilities.

The next item was the delicate problem of *non-international armed conflicts* and internal disorders.

On the whole, the experts approved of the idea of a protocol to supplement the Geneva Conventions. They nevertheless emphasized the difficulty of satisfactorily defining such conflicts.

In a similar general way, the experts urged that the ICRC's right to take initiative in non-international armed conflicts be

strengthened in such a way that its offers of service would be accepted by governments. Governments, it was said, should have confidence in the Red Cross. Moreover, the impartial role of National Red Cross Societies for the benefit of all conflict victims should have the backing of a legal provision.

The importance of respect for humanitarian law by insurgents—in their own interest, incidentally—was emphasized. The ICRC should obtain a commitment from them as it had already done.

With respect to internal disorders, one expert suggested, as the conventional system of recognizing belligerent status had proved ineffective, that standard minimum rules based on the Conventions should supplement Article 3 of the Conventions.

The last item on the agenda was *guerrilla warfare*, a particular form of fighting which occurred both in internal and international conflicts.

One expert stated that all people were entitled to resist invasion and that any government had the right to organize its armed forces in the manner it deemed expedient. However, stress was also laid on the reciprocal advantages to the parties, whatever the circumstances, of observing certain limitations in their methods of fighting, and of granting humane treatment to defenceless enemies. Support was given also to the idea of refraining from carrying out capital punishment during hostilities.

Attention was drawn to the very clear change in the concept of combatant since the drawing up of the Hague Regulations respecting the Laws and Customs of War on Land in 1907 and even since the Geneva Conventions of 1949. The Conference discussed the well-known conditions required of combatants to qualify for treatment as prisoners of war and it considered whether they should be maintained or amended. It appeared that, in any case, an army had to be able to distinguish enemy combatants from the peaceful population and that a certain element of loyalty should prevail during the fighting: that implied that both parties would comply with the laws and customs of war in their operations.

A recommendation was put forward that simple rules, applicable to all the widely varying forms of guerrilla warfare and understandable to everybody, should be drawn up.

## INTERNATIONAL COMMITTEE

In that respect, as in others, the Red Cross had always to endeavour to ensure that the principles of humanity and impartiality prevailed.

When the agenda was completed, the experts were asked whether they had other points to raise.

One expert asked the very appropriate question of what National Red Cross Societies could do to develop and implement humanitarian law. It was suggested that they could promote that undertaking by approaches to their respective governments, train one or more specialists to be made available to the authorities, undertake a publicity campaign to obtain the so necessary support of public opinion, constitute among themselves a select committee of experts, and so forth.

Throughout its work, the Conference sought a balance between idealism and realism. Co-operation among National Red Cross Societies, the ICRC and governments should be continued, for, as was said, "humanitarian law is of concern to all".

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*EXTERNAL ACTIVITIES***ICRC President in the Netherlands**

On the occasion of the Conference of Red Cross Experts on the reaffirmation and development of international humanitarian law applicable in armed conflicts, held at The Hague, Mr. Marcel A. Naville, President of the International Committee, accompanied by Mr. R. Gallopin, member of the ICRC, and Mr. A. van Emden, Director-General of the Netherlands Red Cross, called on 3 March 1971 upon Mr. P. J. S. de Jong, Prime Minister of the Netherlands Government.

Their talks centred essentially on the work of the conference as well as on the studies carried out by the ICRC with a view to the forthcoming conference of government experts to be held in Geneva from 24 May to 12 June 1971.

**Spain**

A delegation of the International Committee was in Madrid from 15 to 18 March. The delegation, headed by Mr. Max Petitpierre, a member of the Committee, went in response to an invitation from the Spanish Red Cross.

Mr. Petitpierre was accompanied by Mr. Raymond Courvoisier, Director of Operations at the ICRC, and Mr. Jean-Pierre Hocké, Delegate.

The delegation was received in audience by H.R.H. the Prince of Spain and by the Vice-President of the Spanish Government. It also had talks with the Ministers of Justice, Interior, Armed Forces and Education, as well as with the Under-Secretary of State at the Ministry of Foreign Affairs.

These various meetings allowed, on the one hand, problems of mutual concern to be approached and, on the other, gave the opportunity for matters to be discussed regarding the new forms of combat adopted in armed conflicts such as guerrilla warfare and, in a general manner, concerning the activities of revolutionary and liberation movements.

The ICRC delegation found that the government authorities considered that the efforts made by the International Committee for the reaffirmation and development of International Humanitarian Law were necessary and highly positive. The delegation was assured that they desired to participate actively in the ICRC's work at the conference of government experts concerning non-international conflicts to be held in Geneva in May-June next.

This visit, in addition, permitted the ICRC delegation to carry out with the leaders of the Spanish Red Cross a thorough exchange of views regarding the problems of interest to the Red Cross world and to lay down with Conde de Toreno, President of the National Society, the details for even closer co-operation with a view to an increasingly extensive dissemination of the Geneva Conventions and of the principles of humanitarian law.

## **Pakistan**

In view of the events taking place in East Pakistan at the end of March, the International Committee assigned Mr. Pierre Gaillard, assistant director, to lead the ICRC mission to Pakistan. Mr. Gaillard left for Karachi on 30 March 1971 accompanied by Mr. F. de Mulinen, delegate. The first team, consisting of Mr. M. Martin, head of the delegation, Mr. Beaud, head of the Relief Service, Mr. Kuhn, delegate in charge of liaison, and Mr. G. Burch, radio operator, left Geneva on 28 March.

A DC-6 on charter to the ICRC reached Karachi with Dr. E. Spirgi, doctor delegate, and 8 tons of medical supplies.

However, the ICRC's negotiations having been unsuccessful, its delegation was unable to go to East Pakistan. The delegation therefore left Karachi and returned to Geneva on 1 April. Before leaving it delivered a supply of antibiotics to the National Society for the benefit of the victims of events in East Pakistan.

## **Republic of Vietnam**

Several visits to places of detention were carried out from November 1970 to January 1971 by delegates and doctor-delegates of the ICRC who went to 10 correctional institutions at Pleiku, Vinh-Long, Phuoc-Lê, Ham-Tan, Bac-Lieu, Truc-Giang, Da-Nang, Tam-Ky, Phu-Vinh and An-Loc. They also visited the Vietnamese Armed Forces Military Hospital at Tay-Ninh and the interrogation centre at Saigon.

In each of these places of detention, they enquired into the living conditions of the detainees.

In January and February 1971, they visited several places of detention, namely the Can-Tho and Bien-Hoa interrogation centres, the Phu-Bai, Ninh Hoa and Bear Cat screening centres and the Phu-Quoc prisoner-of-war camp.

They also visited the Vietnam military hospitals at Nha-Trang, Pleiku and Saigon (Cong Hoa hospital). In the latter hospital they distributed toilet articles to the prisoners of war undergoing treatment.

We might add that in the course of the first two months of the year, the ICRC delegation in Saigon has distributed relief supplies, essentially comprising medicines and toilet requisites, to children in orphanages. It has also supplied school equipment for prisoners of war.

## **Khmer Republic**

On 20 February 1971, ICRC delegates in the Khmer Republic were present when the Khmer Red Cross distributed relief supplies to victims of the shelling around Pochentong airport. These victims number about 4,000 persons from 854 families. Each family received a sleeping-mat, a mosquito net, two blankets, some material for clothing, two tins of milk, two tins of canned fish and spices.

On 2 March, the ICRC delegates attended a relief distribution organized by the Khmer Red Cross in a Pochentong primary school. This relief took the form of clothing, mosquito-nets, food preserves, kitchen utensils, and school equipment.

On the same day the ICRC delegates visited shelters which are under construction in Pochentong for the civilian population.

The work, started on the initiative of the Khmer Red Cross, is financed by the High Commissioner for Refugees.

On 9 March the ICRC delegates and doctor-delegates visited the Préah Ket Méaléa hospital where a Thai Red Cross team specializing in chest surgery is operating. They saw a dozen civilian and military wounded.

## Laos

On 7 February, the ICRC delegates in Laos visited a collecting and guidance centre for ralliers in Sayaboury, where there were 80 Laotians, 25 of them with their families. The delegates handed over medicaments to the camp infirmary. They also visited refugee camps around Long-Cheng.

During that month they visited five refugee villages in the region south-west of the Plain of Jars.<sup>1</sup> Some 160,000 displaced persons were living there, including about 30,000 recent arrivals. These refugees were receiving assistance until they could support themselves, particularly by crop and livestock farming.

## Hong Kong

On 4 February, a delegate of the ICRC visited Stanley Prison in Hong Kong. He saw there 66 political detainees. He enquired into detention conditions and talked to detainees of his own choice without witnesses.

On 18 February he went to the Tai Lam prison for women where he saw five political detainees.

The ICRC carries out visits at regular intervals to places of detention in Hong Kong, the previous one having taken place in the autumn of 1970. Reports on the visits are sent to the detaining authorities.

## Near East

*Release of civilian detainees.*<sup>1</sup>—An Israeli civilian, who had been made prisoner in December 1969 on the Israel-Lebanese border

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<sup>1</sup> *Plate.*





Photo Torrico, La Paz.

**Bolivia:** The two vehicles donated by the ICRC in front of the Bolivian Red Cross headquarters in La Paz (*right*, Dr. Celso Rossell, National Society President).

**Laos:** Dr. Lehner, ICRC Delegate, visiting a school in a refugee village to the south-west of the Plain of Jars (*February, 1971*).





Photo Starphot, Tel-Aviv.

At the Israel-Lebanese frontier: release and repatriation of detainees,  
under ICRC auspices.

by Palestinian combatants, was released and repatriated on 28 February 1971 under ICRC auspices.

On the same day, the Israeli authorities handed over to the ICRC a Palestinian civilian detained since 1965.

Delegates of the ICRC had visited each of the prisoners at regular intervals during their detention.

### **Israel and the occupied territories**

*For the disabled in Gaza.*—Thanks to aid provided by the German Red Cross in the Federal Republic of Germany, the ICRC delegation in Israel has been able to come to the assistance of a certain number of handicapped civilians in Gaza, with the medical co-operation of the Magen David Adom.

The disabled apply to the ICRC delegation, and their particulars are entered in a file. They are then taken to the Magen David Adom clinic in Jaffa, where the medical examinations are carried out. At first, a trial wooden prosthesis is fitted and shaped in the course of measurement tests. Then, the definitive artificial limb is made in plastic material. Finally, the re-education of the patient's equipped limb is carried out under medical supervision.

In 1970, 45 cases were examined at the Magen David Adom centre. Thirty-two patients were fitted out. The Tel-Aviv specialized workshop last year produced 2 arms, 19 legs (below the knee), 12 complete legs, 2 feet, 1 forearm and a support for a paralysed leg.

*Distribution to prisoners.*—The ICRC, through its delegates, recently distributed to 320 prisoners in the prisons of Ashkalon, Beer-Sheba, Gaza, Jenin, Hebron, Nablus and Ramallah, parcels of warm underwear sent to the ICRC by charitable organizations in Jerusalem.

In addition, in February, 506 standard ICRC parcels, containing biscuits, fruit, cigarettes and soap, were distributed in 10 prisons in Israel and the occupied territories to detainees who had not been visited by their families for three months.

*Visit to families in Sinai.*—ICRC delegates in Israel and the occupied territories visited on 9 February 140 persons belonging to 23 families transferred by the Israel authorities from Gaza to

an internment camp at Abu Zeneima in Sinai. They enquired into the living conditions of these persons, and their report, as customary, is being sent to the detaining authorities.

*Visit to prisoners of war.*—On 12 March the ICRC delegates visited all the Arab prisoners of war in Israeli hands: 72 from the United Arab Republic, 40 Syrians, 10 Lebanese and 1 Jordanian. They inquired into detention conditions and talked in private with the detainees of their own choice. As customary, the reports on these visits are being delivered to the Detaining Power and the prisoners' own government.

A Syrian soldier, wounded and captured by the Israeli armed forces on 21 February 1971, was visited the next day by an ICRC delegate.

*Release of prisoners of war.*—Ten Lebanese prisoners of war captured in January 1970 by the Israeli armed forces were released on 23 March 1971. On the same day they were repatriated under the auspices of the ICRC whose delegates regularly visited them during their captivity.

*Repatriation of civilians.*—Four civilian repatriation operations were carried out under ICRC auspices in February 1971. The first, on 15 February, involved two disabled Arab prisoners who were conducted to Jordan across the Allenby Bridge. Four days later, the delegates accompanied back to their own country six civilian shepherds who had been arrested by the Israeli armed forces in the occupied territory of the Golan Heights. On 21 and 22 February, the ICRC repatriated to the Lebanon a three-year-old girl who had wandered across the frontier and a young man who had been captured in July 1970.

### **United Arab Republic**

The delegates of the ICRC visited Israeli prisoners of war twice in February.

In March they visited all Israeli prisoners of war detained in the UAR. On 18 March they saw two who were in a Cairo hospital

for treatment of their wounds, and on 20 March they visited the other ten in the Abassieh military prison.

They enquired into detention conditions and had talks in private with the prisoners of their choice. Their report, as customary, is being sent to the Detaining Power and the prisoners' own government.

### **Lebanon**

On 29 January, the Lebanese authorities released an Israeli who had unlawfully entered Lebanese territory; he was repatriated under ICRC auspices.

### **Syria**

On 15 March 1971 the ICRC delegate in Damascus visited the three Israeli prisoners of war detained in Syria. He inquired into detention conditions and talked with them in private.

### **Bolivia**

Complying with a request from the Bolivian Red Cross, with a view to stepping up its nation-wide vaccination campaign and developing various of its activities, the ICRC sent that Society last November a mobile clinic and a Land Rover. Both reached La Paz in January.

Dr. Celso Rossell Santa Cruz, accompanied by several of his colleagues, took possession of the vehicles on behalf of the Bolivian Red Cross Society, of which he is the President.<sup>1</sup> He thanked the International Committee of the Red Cross for its donation, stressing the usefulness of the vehicles for the Red Cross mission in Bolivia.

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<sup>1</sup> *Plate.*

*IN GENEVA***ICRC VICE-PRESIDENCY**

Mr. Hans Bachmann's and Mr. Jacques Freymond's terms as Vice-Presidents of the International Committee having expired, in accordance with the rules of procedure, the March plenary meeting of the ICRC decided to extend them until the end of June. After that date Mr. Harald Huber, federal court judge, and Mr. Jean Pictet, Chairman of the ICRC Legal-Commission, would assume office as the new Vice-Presidents. However, Mr. Jacques Freymond, who was not present at the March meeting, declined the extension of his term in office, so that his place will be taken by Mr. Pictet with immediate effect.

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**Death of Mr. Martin Bodmer, Honorary Member  
of the ICRC**

In our January issue we announced Mr. Martin Bodmer's resignation from the ICRC, of which he had been a member since 1940, and his election to honorary membership. Now we have regretfully to inform our readers of Mr. Bodmer's death on 22 March 1971. We have already summarized Mr. Bodmer's important work for the Committee over many years. During the funeral, Mr. M. A. Naville, ICRC President, delivered an address; the extracts which are quoted below express better than any other comment the significance of this loss for the International Committee:

*The International Committee of the Red Cross also is in mourning. With Martin Bodmer's death it loses a companion of thirty years'*

*standing, a colleague and a friend who, throughout that long period, ceaselessly offered the institution the resources of his culture, loyalty and goodwill and who always assumed his share of the Committee's responsibilities.*

*It was at Max Huber's request, who like him was from Zurich and who was President of the ICRC at that dramatic hour when the Second World War broke out, that Martin Bodmer came to Geneva to offer his services as a voluntary worker to the Red Cross.*

*The determination not to shirk that form of personal commitment which life demands, and demands the more imperiously that it bestows favours in other directions, led Martin Bodmer to accept, humbly, a work which was to become one of his finest achievements.*

*The ICRC having to discharge a mission of unprecedented scale, this new colleague's help was most welcome. His knowledge of persons and things, his dedication and perseverance, his discreet yet perspicacious intervention in debate, were to lead him quickly to play an important role in the institution.*

*As a testimony of the gratitude it owed him, the ICRC awarded him its silver medal in 1960.*

*Towards the end of last year, when his health was seriously threatened, Martin Bodmer asked to cease his active co-operation on the Committee.*

*Today, from all quarters, from all the Red Cross organizations whose work and development he followed with interest, we are receiving messages of sympathy for the loss of this man of parts, efficient, incapable of yielding assent to injustice towards others, but so respectful of the personality of others that he considered he must conceal the pure outline of his own in a veil of reserve and humour.*

*May I, on behalf of the International Committee as a whole, of the League of Red Cross Societies, and of the Swiss Red Cross, convey our deep sympathy to his family and, in his memory, express with passing words our lasting gratitude.*

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## IN THE RED CROSS WORLD

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### DEATH OF LEAGUE UNDER SECRETARY-GENERAL

On 3 March 1971, Mr. William H. S. Dabney, Under Secretary-General of the League of Red Cross Societies, died in Geneva. He had held office since 1966 and, as a member of the directorate of the League secretariat in Geneva, was responsible for the Operations Sector and the implementation of the Red Cross Development Programme. Under his direction, the Programme made considerable headway. Before and since his appointment, Mr. Dabney carried out missions to many National Societies which highly appreciated him as a warmhearted man of action.

The International Committee has expressed its sympathy to the League and will itself feel keenly the loss of Mr. Dabney.

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### For 8 May 1971

In *Panorama*, the League of Red Cross Societies announced that the European Broadcasting Union is calling on its 60 member radio and television networks to promote the production of film sequences and radio materials on the 1971 World Red Cross, Red Crescent and Red Lion and Sun Day theme "Red Cross working round the clock".

The EBU has undertaken to co-ordinate the exchange of such material between member networks to facilitate the project's



main aim—the preparation of programmes giving a well-documented picture of the Red Cross in action throughout the world. The League has asked all its National Societies to encourage such productions as an important part of their commemoration of 8 May. It will co-ordinate the exchange of materials between non-members of the EBU system.

Many radio and television networks have stated their intention to broadcast, on World Day, nationally produced programmes or extracts of productions by other stations or National Societies. A wide exchange is expected among the radio and television networks, National Societies and the League.

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## M I S C E L L A N E O U S

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### WORLD VETERANS FEDERATION

The 13th General Assembly of the World Veterans Federation was held in Vienna from 1 to 4 September 1970. The ICRC was represented by Mr. M. Borsinger, Delegate General for Europe, and the League of Red Cross Societies by the Secretary General of the Austrian Red Cross. Members of the Federation from 42 countries took part, representing 73 national associations of war veterans, ex-servicemen, war-disabled, war victims and resistance movement fighters.

The General Assembly adopted several resolutions relative to, *inter alia*, prisoners of war, war-disabled, peace problems and the prohibition of chemical and bacteriological weapons. Resolution No. 3 which we give here below is of special interest to the Red Cross <sup>1</sup>:

*The thirteenth General Assembly,*

1. *Considering that more than twenty years have elapsed since the adoption of the Geneva Conventions of 1949 instituting humanitarian standards for the treatment and protection of prisoners of war ;*
2. *Recalling the fact that the Conventions apply in armed conflicts of every kind between two or more parties, however the conflict may be characterized ;*
3. *Considering that the Conventions were signed by government representatives of 125 nations, including all those which are at present engaged in armed conflict ;*

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<sup>1</sup> Our translation.

4. *Considering that the responsibility of all signatories of the Geneva Convention to respect the obligations stipulated in the Geneva Convention was unanimously reaffirmed by 114 countries at the International Conference of the Red Cross meeting nearly a year ago at Istanbul in September 1969,*
  5. *Requests all signatories to honour the obligations they entered into under the Convention to provide, as it is recalled in the Istanbul Conference, assurances that "all uniformed members of the regular armed forces of another party to the conflict and all other persons entitled to prisoner of war status are treated humanely and given the fullest measure of protection prescribed by the Convention, and further calls upon all parties to allow the Protecting Power or the International Committee of the Red Cross free access to prisoners of war and to all places of their detention".*
  6. *Commissions at the same time the Executive Committee of the WVF to study, jointly with the ICRC and appropriate organizations, international ways and means for setting up one or more bases with facilities for the repatriation, exchange and shelter of prisoners of war, with a view to reducing the difficulties encountered in the application of the Geneva Conventions.*
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## STUDIES ON PEACE

At two recent meetings, one in September 1970 at Vienna, the other in March 1971 at Louvain, the ICRC was represented, respectively by Mr. M. Borsinger, Delegate-General for Europe, and Mr. Veuthey, Legal Adviser.

1. *The International Seminar on Mediation Techniques and International Control of Violence* was organized by the International Peace Committee of the International Research Fund. It was attended by more than sixty diplomatic, university and military representatives from 29 countries. The seminar, studying problems

## MISCELLANEOUS

of peace, mediation, and international control of violence by political, diplomatic or military means, was something of an experiment. Several working parties examined differing aspects of peace-keeping, peace-building and peacemaking, and the ways in which international institutions could contribute to those aims.

2. *The Inter-University Colloquium on Polemology* was sponsored by the *Université catholique de Louvain* and the *Katholieke Universiteit te Leuven*. Although the papers delivered, and the discussions, revealed divergent views on the definition of polemology, there was agreement that its methods should be scientific and necessarily inter-disciplinary. Humanitarian law and Human Rights should therefore be included in the concerns of polemologists. Some speakers considered that if polemology is the study of conflicts, conflicts should be studied as obstacles to peace.

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## A DOCTOR'S DUTY TODAY

*The Archives de l'Union médicale balkanique (vol. VI, No. 5), Bucharest, has published the text of a lecture given in Sofia, at the third international refresher course on "Current developments in medicine", by Dr. Raphael Ellenbogen, Secretary-General of the International Committee for Neutrality in Medicine. The author dealt with the application of the Geneva Conventions and with the purposes of his Committee, and it may be of interest to reproduce some extracts from the text in which special reference is made to the dissemination of the Geneva Conventions, as well as to the duties and rights of doctors in the world of today.*

*A summary of the basic provisions of the four Geneva Conventions of 1949 is given in the Archives at the end of the text of the conference.*

In 1966, the Second International Congress on Medical Ethics (Congrès international de la morale médicale), which was held in Paris and attended by a large number of persons eminent in the

worlds of medicine and the law, sought to review some of the problems with which a doctor is constantly faced in his practice, and which often become for him matters of conscience.

Whatever the point at issue—the personal responsibility of the doctor, the collective responsibility of the medical profession, professional secrecy, the removal and grafting of organs—a host of questions may give rise to conflicting feelings and perplex the doctor as he comes face to face with the strict precepts of his professional duty, on the one hand, and with considerations of a quite different order, whether national or ideological, on the other.

It is very difficult to define everything, to codify everything. Granted that the circumstances, the conditions, the environment in which the doctor carries out his task may have a profound bearing on his deportment; yet he must never forget the fundamental rules of humanitarian medical law, which, from earliest times, have had but one purpose: to alleviate suffering and save human life.

The moral responsibility of the doctor remains inescapable regardless of the place and time at which he practises his profession.

The fantastic progress made in recent years in every sector of science and medicine, the introduction of antibiotics and new surgical techniques that vie with one another to prolong men's lives and relieve their suffering have proved disruptive factors; they transform the social system in which we live and radically alter our conceptions of social and legal responsibility, without—for all that—correspondingly adjusting the moral obligations that remain binding upon doctors.

Whilst doctors find little difficulty in peacetime in solving problems associated with observance of the rules of medical "deontology", the case is different in time of war or political upheaval: impassioned feelings or ideological links may cause some of them to forget the duties incumbent upon them in the capacity of physician.

Hence you will perhaps permit me to take up a subject that is intimately connected with the "deontological" rules from which a doctor's duties derive—that is to say, the application of the Geneva Conventions, the "International Code for the Protection of Man in Wartime" and the basis of international humanitarian medical law.

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The Geneva Conventions do not merely lay down the conduct to be observed towards the sick, the wounded, prisoners of war and civilians in case of war; they also prescribe the rights and duties of doctors who are called upon to give aid to victims of armed conflicts.

The duties of a doctor, being strictly humanitarian, require that he show absolute neutrality in the practice of his profession in wartime.

The Geneva Conventions have been signed and ratified by almost every country in the world. It is the International Committee of the Red Cross, a body composed exclusively of Swiss nationals, whose impartiality and devotion to humane causes are universally acknowledged and esteemed, that is entrusted with supervising the application of the Conventions and ensuring the necessary control.

During the past twenty years, however, acts of violence have increased at such a pace in the various countries beset by political upheavals or in a state of armed conflict that the International Committee of the Red Cross has not always been able to intervene effectively on behalf of the victims. Often—and this applies also to certain internal conflicts—its offers of good offices have been declined.

The complexity of international politics and the ideological division of the world at times lead belligerents to question the impartiality of those whose sole aim is to alleviate the victims' sufferings. It is still more difficult to dispel the mistrust felt by belligerents when the disturbances or conflicts are of a non-conventional nature, particularly in a case where one of the parties to a conflict declines to regard its adversary as a belligerent. Doubts concerning the impartiality of the members of a relief mission are augmented by a party's fear that the adversary will be favoured at its expense.

It was incidentally from that standpoint that the International Committee for Neutrality in Medicine was set up by Professor Charles Richet and the army Physician General Voncken. There was of course no question of establishing an organization to compete with the International Committee of the Red Cross. On the contrary, the International Committee for Neutrality in Medicine set itself

the aim of gathering together, in every country, persons capable of contributing, in co-operation with the International Committee of the Red Cross, to the dissemination and interpretation of the Geneva Conventions, as well as to the control of their application.

Specifically, the programme which the founders of the International Committee for Neutrality in Medicine hoped to carry out was outlined in the preamble to the Statutes approved by the 1959 Congress:

“ The tasks which the Committee sets itself are: in peacetime, to offer its collaboration to States, to the International Committee of the Red Cross and to the League of Red Cross Societies; in wartime, to the Protecting Powers and their substitutes, to the International Committee of the Red Cross and to the Parties in conflict, with the object of satisfying itself that humanitarian rules are applied, assisting in their improvement, and ensuring respect for the neutrality of doctors in the fulfilment of their mission. ”

To impose respect for the neutrality of doctors and their qualified assistants is the sole means of effectively helping those who are suffering.

There is no question of claiming on behalf of doctors and their associates a privileged status within their own countries or of proposing to them any system of conscientious objection. Their humanitarian activities in no way exempt them from the obligations by which every fellow-citizen is bound.

A doctor's rights and duties in time of conflict and disturbances have, without exception, been specified in the relevant Hague Conventions and Geneva Conventions. Clearly, their mission is a strictly humanitarian one, devoid of any partisan or ideological attitude.

From this standpoint, at the 1964 International Congress on Neutrality in Medicine, I studied with Mr. Raymond de la Pradelle the conditions attaching to respect for the neutrality of doctors in the event of disturbances and conflicts. It seemed to us indispensable that in time of war or armed conflict a doctor should cease to carry out any activity beyond that of giving medical aid and care. It follows that a doctor must, in certain circumstances, renounce any activity that is not strictly medical.

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Unquestionably, in peacetime and in regard either to the internal affairs of his country or to international affairs, a doctor may—in isolation from his profession—overtly espouse given points of view or the cause of a given political party. But in the event that, domestically, there occurs a period of political upheavals, or, internationally, war is being waged, a doctor must make his choice:

— either to renounce his medical status; or

— to undertake to be nothing but a doctor, and to accept as the definition of neutrality in medicine the following formula: “A doctor is one who declares himself to be at the service of every man, whoever he may be, and who acknowledges no other duty than to comfort, care for, and aid his fellow-men, without distinction as to their nationality, their race, their colour, their opinions or their aims.”

*A fortiori*, a doctor is not called upon to stand in judgement, and his duty towards a person whom he may consider a criminal is identical with his duty towards any other person.

This principle of neutrality must first be accepted and applied by the world of medicine itself. To inspire universal respect for the doctor's neutrality, it is, above all, necessary that he himself should make every effort, in times of disturbances and conflicts, to cease to be anything but a doctor, discarding his ideological and social ties. He must look upon his profession as a ministry in the service of humanity. All men, from the highest in rank to the humblest, should be enabled to feel the highest possible respect for doctors.

It is with the competent authorities, with the civil or military hierarchy, that responsibility for making the principle of medical neutrality known and acceptable most fittingly rests.

Doctors should no longer be convicted by military tribunals for having tended the sick and the wounded, or pharmacists indicted for having supplied medicaments or bandages.

To bring effective aid to those who are suffering, the doctor has to feel himself protected. To that end, domestic legislation should shield him from any arbitrary prosecution to which he might be exposed by reason of the fulfilment of his humanitarian mission.



There is need for a "jurisdictional guarantee" (*garantie juridictionnelle*) giving full weight to the principle of the doctor's neutrality.

Naturally, a doctor who devotes himself to such a mission must receive positive guarantees respecting his personal security. There have been too many cases where, in given circumstances, doctors have been molested, maimed or even massacred by members of an opposing party to whom they were bringing medical aid.

If it is genuinely intended to establish neutrality in medicine, it is likewise indispensable that the humanitarian principles set forth in the Hague Conventions and the Geneva Conventions should be taught and widely disseminated. It is first and foremost in the faculties and schools of medicine and the various related institutions for the training of doctors and auxiliary medical personnel that such teaching should be made compulsory.

The principles in question must be instilled in all those persons who, in whatever capacity, are called upon to apply them...

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### **"RÉALITÉS DU MONDE NOIR ET DROITS DE L'HOMME"**

*This was the title to an article in Revue des droits de l'homme written by Mr. Kéba M'Baye, First President of the Senegalese Supreme Court and, incidentally, one of the experts invited by the ICRC to a panel in Geneva in February 1969. A recent issue of that review, whose important contribution to international and comparative law we have emphasized on several occasions, was devoted to an analysis of the human rights situation (Vol. II-3, Paris). Mr. M'Baye is a contributor to that number and in view of his reputation and the interest of the subject, we deem it useful to reproduce his conclusion below <sup>1</sup>.*

The States of the black races seem keen to accede to the Universal Declaration. Their constitutions contain the Declaration's principles or refer to them. Unfortunately, practice is at variance

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<sup>1</sup> Our translation.

## MISCELLANEOUS

with theory. In the name of security and economic and social development it all too frequently happens that the defence of public liberty and rights is relegated to the background. Worse still, in some cases, legislation itself deviates considerably from the rules intended to protect individual rights and freedoms and from provisions which would secure respect for those rules.

This state of affairs is explained by under-development, which harbours shortcomings of all kinds and, with the evils it brings in its wake preventing the satisfaction of the individual's vital needs, sometimes calls for priority measures of a general nature whose urgency seems intolerant of judicial impediments. To provide for the population, to stave off famine, disease and ignorance, the public authorities in black race States consider themselves to be on a war footing. From that premise they, like the rest of the world in such a situation, particularly in Europe, conclude that they have the right to decree general mobilisation, stretch the limits of the law and restrict public rights and freedoms conferred by positive law. In a word, the rules permanently applied are the emergency law of a State at war, in a state of emergency or subject to special circumstances, thereby vesting governments, even of the advanced states, with the right, in the name of necessity, to ensure the survival of the State by twisting the legal rules governing public rights and freedoms, particularly the right to travel, to work, to defence, etc.

This is a concept which black States will abandon in favour of a normal regime in which public rights and freedoms would be fully respected or, in any case, rarely violated, only when they have achieved economic and social development. Such violations would, in any event, be illegal and punished effectively by the Courts.

However, the question arises whether, by accustoming authorities and local opinion to arbitrary decisions, the general practice of suppressing rights and liberties in the name of State security and social and economic development is not likely to become rooted in common law. Such a state of affairs already exists in some African countries where public opinion considers the State and the law as instruments not of individual freedom but of constraint. The citizens fear the State, keep clear of it and try to live aloof from its sphere of activity.

In other countries, on the other hand, when public opinion is ill informed of its rights and ignorant of its duties, it turns to the State which it looks upon as the oracle which should solve even the most difficult and personal problems.

As balm for their consciences, the governments of these countries vociferate: " The Declaration of Human Rights is in fact the declaration of rights as conceived by the white man ". For these governments man has many facets; he is not a factor in a simple equation. He is more than that. Every man is different.

But this, all the same, is not to say that their negroid origin is proof of inferiority. It must be accepted simply as one aspect of their specific nature.

Every human group has characteristics and a culture of its own which it is not desirable to reduce to an epiphenomenal state. Yet the emulation of Western standards, under the guise of universalism, is no less discreditable.

Black Africa has its own conception of the universe. As Balandier said, there is an African concept of law.

That being said, the fact remains that we for our part are convinced that we must not wait for underdevelopment to be finally overcome (if ever) before trying to respect the rules relevant to public rights and freedoms. The road to economic and social development and consolidation of a country's institutions does not have to circumnavigate the essential principles on which human dignity is based. After all, the final aim of development and any policy should be man's fulfilment, but this is inconceivable unless man may exercise all the rights which the world community recognizes as basic and which he himself feels to be the necessary complement to this own personality.

But is this a universal view of law? Is it not an occidental legal concept according to which the law is a force against others?

What then is the solution? In the absence of a system common to all, every society must have its own law. But that law must be respected. That law, moreover, must necessarily be transitional and, perhaps like an asymptote, approach nearer and nearer to uniformity when true world civilization has been achieved.

## BOOKS AND REVIEWS

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FRITS KALSHOVEN: " BELLIGERENT REPRISALS " <sup>1</sup>

It is well-known that the Henry Dunant Institute has started to bring out several series of works. Some of the books have already come out in print, and their publication has been announced in *International Review*. Thus, in the *Collection du Centenaire*, there has appeared " L'Etat moderne et la Croix-Rouge " (The Modern State and the Red Cross), which was reviewed here in detail, while the *Collection Henry-Dunant* contains several titles: " Un Souvenir de Solférino ", suivi de " L'Avenir sanglant ", by Henry Dunant, and his " Mémoires ". And now, a new series under the general heading, *Collection scientifique*, has been brilliantly inaugurated with the publication of Mr. Kalshoven's book.

M. Jean Pictet, Chairman of the Legal Commission and a member of the ICRC, has written an important preface to this work, and we cannot do better than to give it here in full:

*Acts of violence, committed against all respect of humanitarian law—terrorism, reprisals, the taking of hostages, torture—are increasing nowadays everywhere in disturbing fashion and seem to point to a dangerous escalation of these methods. It has been found that the more conflicts are inflamed by human passions, the less is respect for the law manifested. New forms of struggle, justification for which is professed because of the necessities of war, are spread, in violation of the most elementary principles of humanity, and tend to bring the level of combats down to barbarousness. Let us watch that we do not lend too much respectability to those brutish acts. There are, indeed, some forms of behaviour which can never be deemed to be acts of war, but which will be solely and at all times considered as crimes. Far from being inevitable, these methods rather constitute the easiest way out;*

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<sup>1</sup> Published by A. W. Sijthoff, Leyden, 1971, 390 pp. Members of the Red Cross may obtain this book at a reduced price from the Henry Dunant Institute, 3, rue de Varembe, 1202 - Geneva.

*in the long run, they do not "pay" and bring disrepute to the cause of those who practise them.*

*Over fifty years ago, the Red Cross protested against the harsh measures inflicted upon innocent persons, under pretexts of military or political necessity. Thus in 1916, the International Committee of the Red Cross launched its celebrated appeal against the use of reprisals, and proposed that there should be a total renunciation of such acts against persons protected by the Geneva Conventions. At that time still, most writers accepted reprisals as a means of coercion to be employed against an adversary who did not fulfil his obligations. This conception was a witness to the unorganized character of international law, since each State could in this way make its own laws. In 1943, the International Committee solemnly entreated governments "to respect, even in the face of military considerations, man's natural right not to be treated in an arbitrary manner and not to be charged with the responsibility for acts which he had not committed".*

*The appeal by the International Committee of the Red Cross was heeded, and the Geneva Conventions, as revised and developed in 1949, prohibited all acts of reprisal against victims falling under Geneva Law, thus enshrining one of the basic principles of law, that of personal responsibility. Humanity had undoubtedly scored here a great victory, hailed with fervour by all men dedicated to justice and high ideals. Reprisals do not only beget terrible suffering; as Mr. Kalshoven's book clearly demonstrates, they almost invariably fail to attain their goal, which is the restoration of law and order. In the state of extreme tension current during hostilities, they are liable to spark off counter-measures and to lead, by an inevitable concatenation of events, to the gravest evils. Such a prohibition is in line with the contemporary evolution of international law; it is still another blow aimed at the already tottering structure of the absolute sovereignty of the State.*

*The prohibition of reprisals as set out here is absolute and remains valid even if the violations against which reprisals are sought were committed within the field of the Geneva Conventions. The unconditional character of the compact entered upon by the Powers which set their seal to the document is thus affirmed.*

*If the Geneva Conventions were able to forbid reprisals, that was because they substituted other means, measures better suited to establish respect for law, such as a system of supervision and some rudimentary*

measures of sanctions. The provisions relative to reprisals are thus added to those which, by ensuring the application of the Conventions in all circumstances, lend them the character of a higher order of things based essentially on the protection of the human person.

True, the achievement of 1949 was not quite entire. There still remains a vast sphere of action—the laws and customs of war, or the law of The Hague—where belligerent reprisals have to be prohibited, and it is here that Mr. Kalshoven believes that the situation is so much less favourable. It is common knowledge that the International Committee of the Red Cross has undertaken further studies towards the reaffirmation and development of the rules applicable in armed conflicts, and it will certainly not fail to draw the experts' attention very seriously indeed to this point. It is to be hoped that a solution conformable to the legitimate aspirations of nations will emerge.

I believe that I have shown, in the considerations I have set forth above, the grave significance of the reprisals question. Far from being a matter of purely academic interest, it is highly topical, since it will be, in the near future, the subject of detailed discussions with a view to an extension of the law embodied in the Conventions. It is certain that Mr. Kalshoven's most important book will be an extremely valuable contribution to that undertaking.

It is today recognized that events are followed rather than preceded by law. It can also be affirmed that one of the fundamental elements of law is its stability. That is why history takes such a large part in legal studies, without us being quite conscious of that fact. In order to tackle a problem like that of reprisals, it is necessary to know what are the basic elements, its history and the tenets of legal writers, as well as what has actually been done in this field. Mr. Kalshoven has not failed to acquaint us of these subjects, for which we are grateful.

I would like, finally, to congratulate Mr. Kalshoven on the scientific and objective character of the book he offers to our consideration. It reveals the solid research, concentrated effort of analysis and synthesis and clarity of thought that have gone into its making. Coming at a most appropriate time, this volume will be a valuable work of reference for all those who are interested in the reprisals question, as well as in the development of humanitarian law as a whole. I am happy that it comes from the pen of a citizen of the Netherlands, a country which has done so much to render war less inhuman.

As may be seen, this is a book of major interest. In order to show that its author has not examined the arduous question of reprisals without having presented beforehand the historical aspects and referred to the most recent developments of international law in this field, we quote the chapter headings: General Aspects of Reprisals; Evolution of the Law as to Belligerent Reprisals in the Period prior to the First World War; The Period between the First and Second World Wars; Reprisals in the Second World War; Developments after the Second World War; Results and Perspectives.

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G. JASSERON: "LA CROIX-ROUGE" <sup>1</sup>

In this small book, a sub-title of which defines the Red Cross as "a universal ideology", the author states his modest purpose, which is "to satisfy with a brief explanation the curiosity of people who wish to know about the Red Cross". It is his opinion that fresh tasks continually arise for the Red Cross which "although it may not have come to a crossroads, has at least completed a phase and is faced with the choice of a new orientation". It should meet new needs in order to satisfy its own ambition which is "to protect man against all forms of aggression".

In order to determine its future paths, it is necessary to know from where it comes, and for that to trace its source. That is why several chapters concentrate on the landmarks in the life of the Red Cross, such as the development of the Geneva Conventions, the work of the French Red Cross and the significance of first aid. The author concludes with some personal and ambitious views of the future of the Red Cross and, reminding us of all the threats

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<sup>1</sup> *Edition Allais*, Sotteville-lès-Rouen, France, 136 pp.

## BOOKS AND REVIEWS

to man's future, poses the question of whether it is up to the Red Cross to concern itself with such problems in those countries where they are acute.

J.-G. L.

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### SAVA PENKOV: CONTRIBUTION DE LA CROIX-ROUGE À L'ÉLIMINATION DE LA DISCRIMINATION

The Bulgarian review *Pravna missal* (Sofia, 1970) has published a study by Dr. Sava Penkov, legal adviser to the Bulgarian Red Cross, on a subject of great interest. It points out first of all that the function of the Red Cross is to protect basic human rights in all circumstances. He develops this idea by underlining the importance of other Red Cross principles such as equality, impartiality and universality, of which the concomitant is the rejection of all discrimination.

He quotes several conventions and international Red Cross resolutions forbidding discrimination. According to him, the 1949 Geneva Conventions give expression to the principle of non-discrimination and the best example of this is the Article 3 which is common to the four Geneva Conventions.

Underlining that the United Nations has decided that 1971 will be devoted to the elimination of all forms of discrimination, the author states that in his opinion the international Red Cross strives to good effect to "exterminate" all forms of racial discrimination and thereby contribute to the achievement of its humanitarian ideas.

J. H. P.

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SAVA PENKOV: NATURE JURIDIQUE ET PORTÉE  
DE LA DÉCLARATION UNIVERSELLE DES DROITS DE L'HOMME

This is a study contained in *Recueil d'études et de documents* published in Sofia by the *Association bulgare de droit international* for International Human Rights Year, 1970. Before expounding on the legal value of the Universal Declaration of Human Rights, the author gives a historical background and a reminder of some opinions on this subject, particularly of Soviet publicists.

Emphasizing the interdependence of the United Nations Charter and the Universal Declaration, he expresses the opinion that the latter is neither a treaty nor a convention. Consequently it may not be considered as a source of legal obligations like international agreements. It must however be borne in mind that the United Nations adopted the Declaration unanimously and that the development of national and international rules on human rights and the extension of international humanitarian law are influenced by that declaration.

According to Penkov, the Declaration, as an international deed, does in certain cases at least have a moral, ideological, political and legal significance. It has given new impetus to the codification of international humanitarian law.

J. H. P.

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MALCOLM S. ADISESHIAH: "LET MY COUNTRY AWAKE" <sup>1</sup>

In this book of up-to-date interest, the main theme recurs and the same idea is discernible in the chapters which are followed by a full bibliography: all men and all countries must awaken. Although we cannot yet conceive of tomorrow's world in all its fullness and reality, the modern charters of human rights and the humanitarian conventions remind us of an essential human fellowship. That is

## BOOKS AND REVIEWS

the theme which is the link between the various economic, social and political aspects of development.

Although human welfare is the first objective of the vast international effort we today call "development", it must be realized that it is only possible through education which "should promote understanding, co-operation, tolerance and charity" and should work in favour of peace.

The title of the book—which is a collection of studies on various subjects including development and the mind of man; what tomorrow's culture may be; the human crisis; the role of the university; UNESCO at work; towards a community of thought—is borrowed from a poem by Rabindranath Tagore. But the country which should awaken and which the great Indian poet evokes is the country of each one of us. The optimistic conclusion which is drawn by Mr. Adiseshiah, retired as Deputy Director-General of UNESCO, is that a day will come when all men will recognize allegiance not only to the country of their birth, where they were bred and nourished, where they first felt solidarity, but with the world where all men will be brothers and will work not to secure material wealth but to contribute to the happiness of their neighbour.

*J. G. L.*

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<sup>1</sup> UNESCO, Paris, 1970.

EXTRACT FROM THE STATUTES OF  
THE INTERNATIONAL COMMITTEE OF THE RED CROSS

(AGREED AND AMENDED ON SEPTEMBER 25, 1952)

ART. 1. — The International Committee of the Red Cross (ICRC) founded in Geneva in 1863 and formally recognized in the Geneva Conventions and by International Conferences of the Red Cross, shall be an independent organization having its own Statutes.

It shall be a constituent part of the International Red Cross.<sup>1</sup>

ART. 2. — As an association governed by Articles 60 and following of the Swiss Civil Code, the ICRC shall have legal personality.

ART. 3. — The headquarters of the ICRC shall be in Geneva.

Its emblem shall be a red cross on a white ground. Its motto shall be "Inter arma caritas".

ART. 4. — The special role of the ICRC shall be:

- (a) to maintain the fundamental and permanent principles of the Red Cross, namely: impartiality, action independent of any racial, political, religious or economic considerations, the universality of the Red Cross and the equality of the National Red Cross Societies;
- (b) to recognize any newly established or reconstituted National Red Cross Society which fulfils the conditions for recognition in force, and to notify other National Societies of such recognition;

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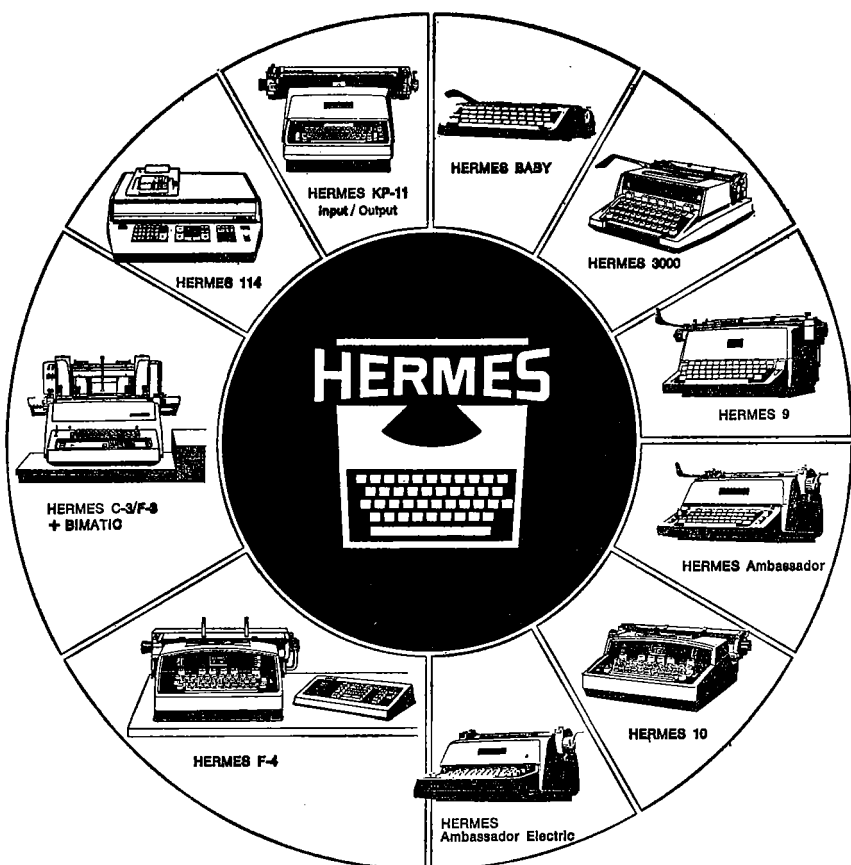
<sup>1</sup> The International Red Cross comprises the National Red Cross Societies, the International Committee of the Red Cross and the League of Red Cross Societies. The term "National Red Cross Societies" includes the Red Crescent Societies and the Red Lion and Sun Society.

- (c) to undertake the tasks incumbent on it under the Geneva Conventions, to work for the faithful application of these Conventions and to take cognizance of any complaints regarding alleged breaches of the humanitarian Conventions;
- (d) to take action in its capacity as a neutral institution, especially in case of war, civil war or internal strife; to endeavour to ensure at all times that the military and civilian victims of such conflicts and of their direct results receive protection and assistance, and to serve, in humanitarian matters, as an intermediary between the parties;
- (e) to contribute, in view of such conflicts, to the preparation and development of medical personnel and medical equipment, in co-operation with the Red Cross organizations, the medical services of the armed forces, and other competent authorities;
- (f) to work for the continual improvement of humanitarian international law and for the better understanding and diffusion of the Geneva Conventions and to prepare for their possible extension;
- (g) to accept the mandates entrusted to it by the International Conferences of the Red Cross.

The ICRC may also take any humanitarian initiative which comes within its role as a specifically neutral and independent institution and consider any questions requiring examination by such an institution.

ART. 6 (first paragraph). — The ICRC shall co-opt its members from among Swiss citizens. The number of members may not exceed twenty-five.

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- ALBANIA — Albanian Red Cross, 35, Rruga e Barrikadavet, *Tirana*.
- ALGERIA — Central Committee of the Algerian Red Crescent Society, 15 bis, Boulevard Mohamed V, *Algiers*.
- ARGENTINE — Argentine Red Cross, H. Yrigoyen 2068, *Buenos Aires*.
- AUSTRALIA — Australian Red Cross, 122-128 Flinders Street, *Melbourne, C. 1*.
- AUSTRIA — Austrian Red Cross, 3 Gusshausstrasse, Postfach 39, *Vienna IV*.
- BELGIUM — Belgian Red Cross, 98, Chaussée de Vleurgat, *Brussels 5*.
- BOLIVIA — Bolivian Red Cross, Avenida Simon Bolivar, 1515 (Casilla 741), *La Paz*.
- BOTSWANA — Botswana Red Cross Society, P.O. Box 485, *Gaborone*.
- BRAZIL — Brazilian Red Cross, Praça da Cruz Vermelha 12 zc/86, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 1, Boul. S.S. Biruzov, *Sofia*.
- BURMA — Burma Red Cross, 42, Strand Road, Red Cross Building, *Rangoon*.
- BURUNDI — Red Cross Society of Burundi, rue du Marché 3, P.O. Box 324, *Bujumbura*.
- CAMEROON — Central Committee of the Cameroon Red Cross Society, rue Henry-Dunant, P.O.B. 631, *Yaoundé*.
- CANADA — Canadian Red Cross, 95 Wellesley Street, East, *Toronto 284 (Ontario)*.
- CEYLON — Ceylon Red Cross, 106 Dharmapala Mawatha, *Colombo VII*.
- CHILE — Chilean Red Cross, Avenida Santa Maria 0150, Correo 21, Casilla 246 V., *Santiago de Chile*.
- CHINA — Red Cross Society of China, 22 Kannien Hutung, *Peking, E*.
- COLOMBIA — Colombian Red Cross, Carrera 7a, 34-65 Apartado nacional 1110, *Bogota D.E.*
- CONGO — Red Cross of the Congo, 41, Avenue Valcke P.O. Box 1712, *Kinshasa*.
- COSTA RICA — Costa Rican Red Cross, Calle 5a, Apartado 1025, *San José*.
- CUBA — Cuban Red Cross, Calle 23 201 esq. N. Vedado, *Havana*.
- CZECHOSLOVAKIA — Czechoslovak Red Cross, Thunovska 18, *Prague I*.
- DAHOMEY — Red Cross Society of Dahomey, P.O. Box 1, *Porto Novo*.
- DENMARK — Danish Red Cross, Ny Vestergade 17, *Copenhagen K*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Calle Juan Enrique Dunant, Ensanche Miraflores, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, Calle de la Cruz Roja y Avenida Colombia 118, *Quito*.
- ETHIOPIA — Ethiopian Red Cross, Red Cross Road No. 1, P.O. Box 195, *Addis Ababa*.
- FINLAND — Finnish Red Cross, Tehtaankatu 1 A, Box 14168, *Helsinki 14*.
- FRANCE — French Red Cross, 17, rue Quentin Bauchart, *Paris (8°)*.
- GERMANY (Dem. Republic) — German Red Cross in the German Democratic Republic, Kaitzerstrasse 2, *Dresden A. 1*.
- GERMANY (Federal Republic) — German Red Cross in the Federal Republic of Germany, Friedrich-Ebert-Allee 71, 5300 *Bonn 1*, Postfach (D.B.R.).
- GHANA — Ghana Red Cross, P.O. Box 835, *Accra*.
- GREAT BRITAIN — British Red Cross, 9 Grosvenor Crescent, *London, S.W.1*.
- GREECE — Hellenic Red Cross, rue Lycavittou 1, *Athens 135*.
- GUATEMALA — Guatemalan Red Cross, 3.<sup>a</sup> Calle 8-40 zona 1, *Guatemala C.A.*
- GUYANA — Guyana Red Cross, P.O. Box 351, Eve Leary, *Georgetown*.
- HAITI — Haiti Red Cross, Place des Nations Unies, B.P. 1337, *Port-au-Prince*.
- HONDURAS — Honduran Red Cross, Calle Henry Dunant 516, *Tegucigalpa*.
- HUNGARY — Hungarian Red Cross, Arany Janos utca 31, *Budapest V*.
- ICELAND — Icelandic Red Cross, Øldugetu 4, Post Box 872, *Reykjavik*.
- INDIA — Indian Red Cross, 1 Red Cross Road *New Delhi 1*.
- INDONESIA — Indonesian Red Cross, Djalan Abdulmuis 66, P.O. Box 2009, *Djakarta*.
- IRAN — Iranian Red Lion and Sun Society, Avenue Ark, *Teheran*.
- IRAQ — Iraqi Red Crescent, Al-Mansour, *Baghdad*.
- IRELAND — Irish Red Cross, 16 Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, *Rome*.
- IVORY COAST — Ivory Coast Red Cross Society, B.P. 1244, *Abidjan*.
- JAMAICA — Jamaica Red Cross Society, 76 Arnold Road, *Kingston 5*.
- JAPAN — Japanese Red Cross, 5 Shiba Park, Minato-Ku, *Tokyo*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10 001, *Amman*.
- KENYA — Kenya Red Cross Society, St Johns Gate, P.O. Box 712, *Nairobi*.
- KHMER REPUBLIC — Khmer Red Cross, 17, Vithei Croix-Rouge khmère, P.O.B. 94, *Phnom-Penh*.
- KOREA (Democratic People's Republic) — Red Cross Society of the Democratic People's Republic of Korea, *Pyeongyang*.
- KOREA (Republic) — The Republic of Korea National Red Cross, 32-3 Ka Nam San-Donk, *Seoul*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359, *Kuwait*.
- LAOS — Lao Red Cross, P.B. 650, *Vientiane*.
- LEBANON — Lebanese Red Cross, rue Général Spears, *Beirut*.

## ADDRESSES OF NATIONAL SOCIETIES

- LIBERIA** — Liberian National Red Cross, National Headquarters, 13th Street-Sinkor, P.O. Box 226, *Monrovia*.
- LIBYAN ARAB REPUBLIC** — Libyan Red Crescent, Berka Omar Mukhtar Street, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN** — Liechtenstein Red Cross, FL-9490 *Vaduz*.
- LUXEMBOURG** — Luxembourg Red Cross, Parc de la Ville, C.P. 234, *Luxembourg*.
- MADAGASCAR** — Red Cross Society of Madagascar, rue Clemenceau, P.O. Box 1168, *Tananarive*.
- MALAWI** — Malawi Red Cross, Hall Road, Box 247, *Blantyre*.
- MALAYSIA** — Malaysian Red Cross Society, 519 Jalan Belfield, *Kuala Lumpur*.
- MALI** — Mali Red Cross, B.P. 280, route de Koulikora, *Bamako*.
- MEXICO** — Mexican Red Cross, Avenida Ejército Nacional, n° 1032, *Mexico* 10, D.F.
- MONACO** — Red Cross of Monaco, 27 Boul. de Suisse, *Monte-Carlo*.
- MONGOLIA** — Red Cross Society of the Mongolian People's Republic, Central Post Office, Post Box 537, *Ulan Bator*.
- MOROCCO** — Moroccan Red Crescent, rue Benzakour, B.P. 189, *Rabat*.
- NEPAL** — Nepal Red Cross Society, Tripureswar, P.B. 217, *Kathmandu*.
- NETHERLANDS** — Netherlands Red Cross, 27 Prinsessegracht, *The Hague*.
- NEW ZEALAND** — New Zealand Red Cross, 61 Dixon Street, P.O.B. 6073, *Wellington C.2*.
- NICARAGUA** — Nicaraguan Red Cross, 12 Avenida Noroeste, 305, *Managua*, D.N.
- NIGER** — Red Cross Society of Niger, B.P. 386, *Niamey*.
- NIGERIA** — Nigerian Red Cross Society, Eko Akete Close, off. St. Gregory Rd., Onikan, P.O. Box 764, *Lagos*.
- NORWAY** — Norwegian Red Cross, Parkveien 33b, *Oslo*.
- PAKISTAN** — Pakistan Red Cross, Dr Dawood Pota Road, *Karachi 4*.
- PANAMA** — Panamanian Red Cross, Apartado 668, Zona 1, *Panama*.
- PARAGUAY** — Paraguayan Red Cross, calle André Barbero y Artigas 33, *Asunción*.
- PERU** — Peruvian Red Cross, Jiron Chancay 881, *Lima*.
- PHILIPPINES** — Philippine National Red Cross, 860 United Nations Avenue, P.O.B. 280, *Manila D-406*.
- POLAND** — Polish Red Cross, Mokotowska 14, *Warsaw*.
- PORTUGAL** — Portuguese Red Cross, General Secretaryship, Jardim 9 de Abril, 1 a 5, *Lisbon 3*.
- RUMANIA** — Red Cross of the Socialist Republic of Rumania, Strada Biserica Amzei 29, *Bucarest*.
- SALVADOR** — Salvador Red Cross, 3a Avenida Norte y 3a Calle Poniente 21, *San Salvador*.
- SAN MARINO** — San Marino Red Cross, Palais gouvernemental, *San Marino*.
- SAUDI ARABIA** — Saudi Arabian Red Crescent *Riyadh*.
- SENEGAL** — Senegalese Red Cross Society, Bld. Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SIERRA LEONE** — Sierra Leone Red Cross Society, 6 Liverpool Street, P.O.B. 427, *Freetown*.
- SOMALI REPUBLIC** — Somali Red Crescent Society, P.O. Box. 937, *Mogadiscio*.
- SOUTH AFRICA** — South African Red Cross, Cor. Kruis & Market Streets, P.O.B. 8726, *Johannesburg*.
- SPAIN** — Spanish Red Cross, Eduardo Dato 16, *Madrid, 10*.
- SUDAN** — Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SWEDEN** — Swedish Red Cross, Artillerigatan 6, 10440, *Stockholm 14*.
- SWITZERLAND** — Swiss Red Cross, Taubenstrasse, 8, B.P. 2699, 3001 *Berne*.
- SYRIA** — Syrian Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA** — Tanganyika Red Cross Society, Upanga Road, P.O.B. 1133, *Dar es Salaam*.
- THAILAND** — Thai Red Cross Society, King Chulalongkorn Memorial Hospital, *Bangkok*.
- TOGO** — Togolese Red Cross Society, Avenue des Alliés 19, P.O. Box 655, *Lomé*.
- TRINIDAD AND TOBAGO** — Trinidad and Tobago Red Cross Society, 48 Pembroke Street, P.O. Box 357, *Port of Spain*.
- TUNISIA** — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis*.
- TURKEY** — Turkish Red Crescent, Yenisehir, *Ankara*.
- UGANDA** — Uganda Red Cross, Nabunya Road, P.O. Box 494, *Kampala*.
- UNITED ARAB REPUBLIC** — Red Crescent Society of the United Arab Republic, 34, rue Ramses, *Cairo*.
- UPPER VOLTA** — Upper Volta Red Cross, P.O.B. 340, *Ouagadougou*.
- URUGUAY** — Uruguayan Red Cross, Avenida 8 de Octubre, 2990, *Montevideo*.
- U.S.A.** — American National Red Cross, 17th and D Streets, N.W., *Washington 6 D.C.*
- U.S.S.R.** — Alliance of Red Cross and Red Crescent Societies, Tcheremushki, J. Tcheremushkinskii proezd 5, *Moscow W-36*.
- VENEZUELA** — Venezuelan Red Cross, Avenida Andrés Bello No. 4, Apart. 3185, *Caracas*.
- VIET NAM (Democratic Republic)** — Red Cross of the Democratic Republic of Viet Nam, 68, rue Bà-Triệu, *Hanoi*.
- VIET NAM (Republic)** — Red Cross of the Republic of Viet Nam, 201, đường Hồng-Thập-Tu, No. 201, *Saigon*.
- YUGOSLAVIA** — Yugoslav Red Cross, Simina ulica broj 19, *Belgrade*.
- ZAMBIA** — Zambia Red Cross, P.O. Box R. W. 1, Ridgeway, *Lusaka*.